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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON**

**R. ALEXANDER ACOSTA**, Secretary of Labor, )  
United States Department of Labor, )  
Plaintiff, )  
v. )

Case No. 2:17-cv-218

**KALEY PROPERTY SERVICES, INC., D/B/A** )  
**KPS MANAGEMENT AND KPS PROPERTY** )  
**MANAGEMENT**, a Washington corporation; )  
**KPS REALTY, LLC**, a Washington limited )  
liability company; **COMSTOCK** )  
**CONSTRUCTION & RENOVATIONS, LLC**, a )  
Washington limited liability company; )  
**KARLYN KALEY**, an individual and managing )  
agent of the Corporate Defendants; and )  
**RICHARD KALEY**, an individual and a )  
managing agent of the Corporate Defendants; )  
Defendants. )

**COMPLAINT FOR INJUNCTIVE RELIEF  
AND TO RECOVER AMOUNTS DUE  
UNDER THE FAIR LABOR STANDARDS  
ACT**

**(29 U.S.C. § 201 et seq.)**

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## INTRODUCTION

Plaintiff R. Alexander Acosta, Secretary of Labor, United States Department of Labor (“Secretary”), alleges as follows:

1. The Secretary brings this action to enjoin Defendants Kaley Property Services, Inc., d/b/a KPS Management and KPS Property Management; KPS Realty, LLC; Comstock Construction & Renovations, LLC; Karlyn Kaley; and Richard Kaley (collectively referred to as “Defendants”) from violating the provisions of Sections 6, 7, 11, and 15 of the Fair Labor Standards Act of 1938, as amended (“FLSA”), 29 U.S.C. §§ 206, 207, 211, and 215, and to recover wages owed under the FLSA to present and former employees of the Defendants as listed by name on the attached Exhibit A to this Complaint, as well as other current and/or former employees as yet unknown to the Secretary, together with an equal amount as liquidated damages pursuant to Section 16(c) of the FLSA, 29 U.S.C. § 216(c), for the period of time from August 9, 2014, to the present.

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## JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction of this action under Section 17 of the FLSA, 29 U.S.C. § 217; this Court also has subject matter jurisdiction of this action

1 under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1345 (United States as  
2 Plaintiff).

3         3.       The Court has personal jurisdiction over all defendants.

4               (a)       Corporate Defendant Kaley Property Services, Inc., is a Washington-  
5 registered corporation with its principal executive office located at 524 North Mullan  
6 Road, Suite 101, Spokane Valley, Washington 99206. Corporate Defendant Kaley  
7 Property Services, Inc., on information and belief, is doing business as KPS Management  
8 and KPS Property Management.  
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10              (b)       Corporate Defendant KPS Realty, LLC, is a Washington-registered  
11 limited liability company with its principal executive office located at 524 North Mullan  
12 Road, Suite 101, Spokane Valley, Washington 99206.  
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14              (c)       Corporate Defendant Comstock Construction and Renovations, LLC  
15 (also known as CC&R), is a Washington-registered limited liability company with its  
16 principal executive office located at 524 North Mullan Road, Suite 101, Spokane Valley,  
17 Washington 99206.  
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19              (d)       On information and belief, Karlyn Kaley resides within the  
20 jurisdiction of this Court and/or purposely avails herself of the privilege of operating a  
21 business within the jurisdiction of this Court.  
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1 (e) On information and belief, Richard Kaley resides within the  
2 jurisdiction of this Court and/or purposely avails himself of the privilege of operating a  
3 business within the jurisdiction of this Court.  
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5 4. Venue lies in the United States District Court, Eastern District of  
6 Washington, pursuant to 28 U.S.C. § 1391(b).  
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8 **DEFENDANTS ARE EMPLOYERS UNDER THE FLSA**  
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10 5. At all material times, Defendant Kaley Property Services, Inc., has operated  
11 through its d/b/a's KPS Management and KPS Property Management as a full-service  
12 property management company and real estate brokerage firm that provides property  
13 management, leasing, sales, purchase, relocation, and custom real estate investment  
14 analysis services in and around Spokane Valley, Washington.

15 6. At all material times, Defendant KPS Realty, LLC, has conducted real estate  
16 sales, acquisitions, and property management services for Easy Acres Mobile Home  
17 Village located at 4911 N. Florida Street, Spokane, Washington 99217, and other as-yet  
18 unknown businesses. Defendant Kaley Property Services, Inc., is a governing person for  
19 Defendant KPS Realty, LLC.

20 7. At all material times, Defendant Comstock Construction and Renovations,  
21 LLC, provided maintenance and repair services to the properties owned or managed by  
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1 KPS Management. Defendant Karlyn Kaley is a governing person for Defendant  
2 Comstock Construction & Renovations, LLC.

3 8. Defendant Karlyn Kaley, a 50% owner of Kaley Property Services, Inc., at  
4 all material times acted directly or indirectly in the interest of Kaley Property Services,  
5 Inc., in relation to its employees as a managing agent and is an employer under Section  
6 3(d) of the FLSA, 29 U.S.C. § 203(d). On information and belief, Defendant Karlyn  
7 Kaley makes enterprise-wide decisions; and directs and oversees, and has the authority to  
8 direct and oversee, the operations, pay practices and payroll, and terms of employment of  
9 administrative staff, property managers, resident managers, project managers,  
10 janitorial/maintenance workers, and lawn services workers employed by Kaley Property  
11 Services, Inc.  
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14 9. Defendant Richard Kaley, a 50% owner of Kaley Property Services, Inc., at  
15 all material times acted directly or indirectly in the interest of Kaley Property Services,  
16 Inc., in relation to its employees as a managing agent and is an employer under Section  
17 3(d) of the FLSA, 29 U.S.C. § 203(d). On information and belief, Defendant Richard  
18 Kaley directs the work of Defendant Comstock Construction & Renovations, LLC,  
19 employees.  
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21 10. On information and belief, all Defendants, individually and jointly, serving  
22 as agents for one another, controlled the material aspects of the employment relationship  
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1 with their employees, including hiring, firing, setting pay rates, setting work schedules,  
2 assigning and supervising work, assigning employees to work locations, and preparing  
3 and maintaining pay records.

4 11. All Defendants are employers under Section 3(d) of the FLSA, 29 U.S.C.  
5 § 203(d).  
6

7 **DEFENDANTS' EMPLOYEES ARE ENTITLED TO THE**  
8 **WAGES AND PROTECTIONS OF THE FLSA**

9 12. Defendants' activities constitute and at all relevant times have constituted  
10 related activities performed through unified operation or common control for a common  
11 business purpose and are and at all relevant times have been an "enterprise" as defined in  
12 FLSA § 3(r), 29 U.S.C. § 203(r).  
13

14 13. Defendants' employees were or are engaged in commerce and/or in handling  
15 or working on goods that had been moved in commerce, as they regularly handle goods  
16 that had or have been shipped from places outside of the state of Washington.  
17 Defendants' enterprise has, and at all relevant times has had, an annual gross volume of  
18 sales made or business done of no less than \$500,000.00, and said enterprise constitutes,  
19 and at all relevant times has constituted, an "enterprise engaged in commerce or in the  
20 production of goods for commerce" as defined by FLSA § 3(s), 29 U.S.C. § 203(s). As  
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1 such, Defendants' employees are covered by the FLSA, including its wage and  
2 recordkeeping provisions.

### 4 **DEFENDANTS VIOLATED THE FLSA**

5 14. Defendants have violated and are violating provisions of Sections 6 and  
6 15(a)(2) of the FLSA, 29 U.S.C. §§ 206 and 215(a)(2), by employing employees engaged  
7 in commerce or in the production of goods for commerce, or employed in an enterprise  
8 engaged in commerce or in the production of goods for commerce, within the meaning of  
9 the FLSA, at wage rates less than the applicable federal minimum wage.  
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11 15. Defendants have violated and are violating provisions of Sections 7 and  
12 15(a)(2) of the FLSA, 29 U.S.C. §§ 207 and 215(a)(2), by employing employees engaged  
13 in commerce or in the production of goods for commerce, within the meaning of the  
14 FLSA, or employed in an enterprise engaged in commerce or in the production of goods  
15 for commerce, within the meaning of Section § 3(s) of the FLSA, 29 U.S.C. § 203(s), for  
16 workweeks longer than 40 hours without compensating said employees for their  
17 employment in excess of 40 hours in such workweeks at rates not less than one and one-  
18 half times the regular rates at which they were employed.  
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20 16. Defendants have violated and are violating the provisions of Sections 11(c)  
21 and 15(a)(5) of the FLSA, 29 U.S.C. §211(c) and §215(a)(5), by failing to maintain,  
22

1 keep, and preserve records of employees and of the wages, hours, and other conditions  
2 and practices of employment maintained, as prescribed by the regulations promulgated by  
3 the Secretary pursuant to the authority granted in the FLSA and published in the Federal  
4 Register and known as Title 29, Code of Federal Regulations, Part 516.

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6 17. During the period since August 9, 2014, Defendants have repeatedly and  
7 willfully violated and are violating the above-described provisions of the FLSA. For  
8 example:

9 (a) Defendants misclassified housekeepers, janitorial workers, lawn  
10 service workers, maintenance workers, and resident managers as independent contractors,  
11 resulting in overtime not being paid when the employees worked more than 40 hours in a  
12 workweek.

13  
14 (b) Resident managers, who were paid a salary but were non-exempt  
15 workers, suffered or were permitted to work enough hours that their hourly wage at times  
16 fell below the federal minimum wage.

17 (c) Defendants deducted employees' wages to cover late rents and  
18 personal phone calls made on a company phone, which caused employees' hourly wage  
19 to fall below the federal minimum wage.  
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1 (d) Defendants failed to pay office and maintenance workers for work  
2 performed before the employees clocked in and after they clocked out, resulting in  
3 overtime not being paid.

4 (e) Defendants failed to combine all hours worked for multiple duties  
5 being performed for one or more of the corporate defendants, resulting in overtime not  
6 being paid.

7 (f) Defendants paid employees on a monthly basis. When one month  
8 ended and another began during a work week, the hours in that week were not combined,  
9 resulting in overtime not being paid for that week.

10 (g) Defendants did not maintain time records of non-exempt salaried  
11 employees.

12 (h) The hours recorded on payroll records for non-exempt salaried  
13 employees different from hours actually worked by employees.

14 18. As a result of the violations of the monetary provisions of the FLSA, unpaid  
15 minimum wage and overtime compensation is due under the FLSA.

16 19. A judgment permanently enjoining and restraining such violations of the  
17 FLSA is specifically authorized by Section 17 of FLSA, 29 U.S.C. § 217.

1           20.    A judgment enjoining and restraining the continued withholding of unpaid  
2 minimum wage and overtime compensation due under the FLSA is specifically  
3 authorized by Section 17 of the FLSA, 29 U.S.C. § 217.  
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5           21.    Judgment awarding unpaid minimum wage and overtime compensation due  
6 under the FLSA, plus an additional amount as liquidated damages that is equal to the  
7 amount of minimum wage and overtime compensation that accrued under the FLSA, is  
8 specifically authorized by Section § 16(c) of the FLSA, 29 U.S.C. § 216(c).  
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10           **WHEREFORE**, cause having been shown, the Secretary respectfully requests the  
11 Court to issue, jointly and severally against Defendants, the following:  
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13           A.    An order, pursuant to Section 17 of the FLSA, 29 U.S.C. § 217, permanently  
14 enjoining and restraining Defendants, their officers, agents, servants, employees,  
15 successors-in-interest, co-employers, and those persons in active concert or participation  
16 with them, from prospectively violating the provisions of Sections 15(a)(2) and 15(a)(5)  
17 of the FLSA, 29 U.S.C. §§ 215(a)(2) and 215(a)(5);  
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19           B.    An order:

20               (i)   Pursuant to Section 16(c) of the FLSA, 29 U.S.C. § 216(c), finding  
21 the Defendants liable for any unpaid minimum wages and overtime compensation that  
22 may be found by the Court to be due under the FLSA, plus an additional amount as and  
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1 for liquidated damages equal to any minimum wage and overtime compensation found to  
2 have accrued under the FLSA, to present and former employees of Defendants including  
3 the persons listed by name on the attached Exhibit A as well as other current and/or  
4 former employees as yet unknown to the Secretary; and  
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6 (ii) In any instances where liquidated damages are not awarded herein,  
7 restraining, pursuant to Section 17 of the FLSA, 29 U.S.C. § 217, the Defendants, their  
8 officers, agents, servants, employees, successors-in-interest, co-employers, and those  
9 persons in active concert or participation with them from continuing to withhold the  
10 payment of any unpaid minimum wage and overtime compensation that may be found by  
11 this Court to have accrued under the FLSA to present and former employees of  
12 Defendants including the persons listed by name on the attached Exhibit A, plus pre-  
13 judgment interest thereon; and  
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15 (iii) Awarding the Secretary the costs of this action and providing such  
16 further legal and equitable relief as may be deemed appropriate; and  
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18 C. An order providing such further legal and equitable relief as may be deemed  
19 appropriate.  
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1 DATED this 16th day of June 2017.

2  
3 NICHOLAS C. GEALE  
4 Acting Solicitor of Labor

5 JANET M. HEROLD  
6 Regional Solicitor

7 BRUCE L. BROWN  
8 Associate Regional Solicitor

9 By: /s/ Susan Brinkerhoff  
10 SUSAN BRINKERHOFF  
11 Trial Attorney

12 **U.S. DEPARTMENT OF LABOR**  
13 **Counsel for Plaintiff**

**EXHIBIT A**

1. Kirsten Baker
2. Shiloh K. BethEl
3. David Brown
4. Cathy E. Henderson
5. Marsha Lagle
6. Keith D. Parkin
7. Jonathan M. Powers
8. James A. Schuyler
9. Darrin P. Shepard
10. Adam D. Short
11. Tamara L. Short
12. Mitchell J. Vera
13. Michelle Winterroth
14. Scott A. Winterroth
15. Any and all Jane Does not yet known to the Secretary
16. Any and all John Does not yet known to the Secretary